

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DERRICK LIPSEY,

Petitioner,

v.

**Case No. 2:97-CV-602
Crim. No. 2:92-CR-119(7)
JUDGE GRAHAM
Magistrate Judge KING**

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On August 8, 2005, the Magistrate Judge issued a *Report and Recommendation* recommending that petitioner's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b) be construed as a successive petition and transferred to the United State Court of Appeals for the Sixth Circuit.

Although the parties were specifically informed of their right to object to the *Report and Recommendation*, and of the consequences of their failure to do so, there has nevertheless been no objection to the *Report and Recommendation*.

The *Report and Recommendation* is hereby **ADOPTED AND AFFIRMED**. This case is **TRANSFERRED** to the Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. §1631 for authorization under 28 U.S.C. §2244(b)(3)(A).

IT IS SO ORDERED.

s/James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: August 25, 2005